



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

518-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

CHRISTOPHER K LIVINGSTON MD  
6410 FANNIN #927  
HOUSTON TX 77030

DWC Claim #:  
Injured Employee:  
Date of Injury:  
Employer Name:  
Insurance Carrier #:

#### **Respondent Name**

AMERICAN ZURICH INSURANCE CO

#### **Carrier's Austin Representative Box**

Box Number 19

#### **MFDR Tracking Number**

M4-12-0329-01

#### **MFDR Date Received**

September 30, 2011

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** The initial position summary listed on the table of dispute services states: "Surgery was authorized on 6/8/11 for 6/1- surgery. On 8/24/11 Melissa/SRS stated on 7/6/11 claim approved for \$22,288.54 + gave check # 00799689. Adjuster/Jennifer Bradford stated check issued in error & claims are denied." The Requestor received payment for date of service June 10, 2011 and submitted an updated statement: "We received check for \$22,288.54 for 6/10/11 surgery. Thank you. Please give me status on 6/14/11 through 6/16/11 surgery on 2<sup>nd</sup> page of dispute. And status of 6/6/11 consult."

**Amount in Dispute (new amount):** \$2,895.30

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The carrier has denied compensability for the claim. The denial was filed on June 9, 2011, just seven days after the date of injury. A contested case hearing was scheduled for October 12, 2011. Unless and until it is determined the claim is compensable and the carrier is liable for the claim, the carrier is not responsible for the services underlying the disputed charges. No reimbursement is due at this time."

**Response Submitted by:** Flahive, Ogden & Latson, PO Box 201320, Austin, TX 748720

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 6, 2011	CPT Code 99215 (54.54 / 33.9764) x \$138.60 =	\$202.05	\$202.05
June 14, 2011	CPT Code 15002 (68.47 / 33.9764) x \$230.02 =	\$422.97	\$422.97
June 14, 2011	CPT Code 11043 (68.47 / 33.9764) x \$124.25 =	\$437.87	\$437.87
June 14, 2011	CPT Code 15003 (68.47 / 33.9764) x \$46.46 =	\$87.44	\$87.44
June 16, 2011	CPT Codes 15100 (68.47 / 33.9764) x 726.09 =	\$1,322.00	\$1,322.00

June 16, 2011	CPT Code 15002 (68.47 / 33.9764) x \$230.02 =	\$422.97	\$422.97
---------------	---	----------	----------

### ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §133.203 sets out the procedures for payment of professional medical services, charges and payments.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:  
Explanations of benefits dated July 8, 2011 and July 12, 2011:
  - 214 – Workers Compensation claim adjudicated as non-compensable. This payer not liable for claim or service/treatment. Services denied.

#### **Issues**

1. Was the issue of compensability resolved?
2. Did the requestor received payment for date of service June 10, 2011?
3. Did the requestor submit the request for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307?
4. Did the requestor submit documentation to support the treatment was rendered as billed in accordance with 28 Texas Administrative Code §134.203?
5. Is the requestor entitled to reimbursement?

#### **Findings**

1. The EOBs, submitted by the requestor, deny payment of the treatment rendered to the injured employee due to compensability. A benefit review conference was held on August 15, 2011 to mediate resolution of the disputed issues; however, the parties were unable to reach an agreement. A contested case hearing was held on February 7, 2012 and the decision of the Hearing Officer was that the claimant sustained a compensable injury on June 1, 2011 and that the claimant has disability resulting from the compensable injury from June 2, 2011 through the date of the hearing. Therefore, the disputed dates of service are eligible for review in accordance with Texas Labor Code and Division Rules.
2. The requestor faxed a dispute table and letter stating they had received a payment of \$22,288.54 for date of service June 10, 2011; however, the respondent did not review dates of service June 6, 2011, June 14, 2011 and June 16, 2011. The Division requested a copy of the EOB from the carrier representative and received one page of an EOB dated June 30, 2011 that showed no total payment. In totaling the EOB it matched the \$22,288.54 payment received by the requestor. Therefore, this date of service is no longer in dispute and the remaining dates of service will be reviewed in accordance with the Labor Code and Division Rules.
3. Per 28 Texas Administrative Code §133.307 the requestor submitted the request for medical fee dispute resolution; therefore, the requestor has met the requirements of the rule.
4. CPT Code 99215 for date of service June 6, 2011 – Review of the clinical notes for this date of service documents the services were rendered as billed. Therefore, in accordance with 28 Texas Administrative Code §134.203 (b)(1) reimbursement is recommended.  
CPT Codes 15002, 15003 and 11043 for date of service June 14, 2011 – Review of the operative report supports the procedures were rendered as billed. Therefore, in accordance with 28 Texas Administrative Code §134.203 (b)(1) reimbursement is recommended.  
CPT Codes 15100 and 15002 for date of service June 16, 2011 - Review of the operative report supports the procedures were rendered as billed. Therefore, in accordance with 28 Texas Administrative Code §134.203 (b)(1) reimbursement is recommended.
5. Review of the submitted documentation finds that reimbursement is due for the office visit and procedures performed on June 6, June 14, and June 16, 2011.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$ 2,895.30.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$2,895.30 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____	_____	July 19, 2011
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**